IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

Crl.MC.No. 1854 of 2007()

SC.452/2002 of
.....

PETITIONER: 7TH ACCUSED (ORIGINAL ACCUSED NO.8)

MOHANAN,
ITTIKONATHU VEEDU, THURUVIKKAL P.O.,
THIRUVANANTHAPURAM DIST.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

RESPONDENTS: COMPLAINANT

STATE, REPRESENTED BY THE
PUBLIC PROSECUTOR, OFFICE OF THE
ADVOCATE GENERAL, HIGH COURT BUILDING,
ERNAKULAM, KOCHI.

BY P.P. SRI.GIKKU JACOBL.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO.1854 OF 2007

Dated this the 14th day of June, 2007

ORDER

The petitioner was the absconding 8th accused in a prosecution for offences punishable, inter alia, under Sec.3 of the Scheduled Castes and Scheduled Tribes (Prevention of Attrocities) Act. The petitioner was not available for trial. His co-accused, who faced trial, were found not guilty and acquitted as per Annexure-IV judgment. The petitioner, who was absconding, has come before this Court with a request that the powers under Sec.482 may be invoked to bring to premature termination the proceedings against the petitioner.

2. **Moosa v. Sub Inspector of Police** (2006 (1) KLT 552) is authority for the proposition that an absconding co-accused cannot claim any benefit or advantage on the basis of the findings entered in a trial held in his absence against the co-accused. The complicity of the petitioner was legally not an

issue at all in the trial held against the co-accused and, in these circumstances, the attempt of the petitioner, who has been absconding all along to take advantage of the observations and findings in the trial against the co-accused, cannot succeed.

3. The learned counsel for the petitioner submits that there has been a finding in the judgment that the case of the prosecution cannot be accepted. Even that finding cannot persuade this Court to concede any benefit to the petitioner on the basis of the judgment in the trial held in his absence.

4. In the result, this petition is dismissed. I may, however, hasten to observe that the petitioner shall be at liberty to raise his contentions that he is entitled for discharge before the learned Sessions Judge. It is further submitted that a warrant of arrest is pending against the petitioner. Needless to say, the petitioner can appear before the learned Judge and the learned Judge must consider and dispose of his application for for bail if sufficient prior notice is given to the Prosecution in charge of the

case, on merits, in accordance with law and expeditiously – on the date of surrender itself.

5. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-
(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge